THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No.11168 OF 2005

A N D

W.P.No. 11827 OF 2005

6th December,2005

Between:

W.P.No. 11168 OF 2005

Mary Health Workers, SC, ST

Socio Economic and Development

Welfare Society, Gaddalagunta,

Ongole …Petitioner

A N D

1. The Ongole Municipality, Ongole and another

….Respondents

W.P.No. 11827 of 2005

Ongole Harijana Private Parisudhaya Sangam …Petitioner

A N D

Ongole Municipality and another …Respondents

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W.P.No.11168 OF 2005

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COMMON ORDER:

1. Since the issue involved in both the writ petitions is one and the same, they are heard together and are being disposed of by this common order.

2. W.P.No. 11168 of 2005 has been filed by Mary Health Workers, SC,ST Socio Economic and Development Welfare Society, Gaddalagunta, Ongole, represented by its President Purimetla Subarathnam.

3. W.P.No. 11827 of 2005 has been filed by Ongole Harijana Private Parisudhya Panivarala Sangam, rep. by its President Anantarapu Veeraiah.

4. In both the writ petitions challenge has been made to the tender notification in Rc.No.3004/2005-F2, dated 24-3-2005. Petitioner in W.P.No.11168 of 2005 is concerned with the works to be executed with reference to I, II and IV divisions. Whereas the petitioner in W.P.No. 11827 of 2005 is concerned with the work to be executed with reference to V division. The grievance of the petitioners is that in spite of their tenders being lowest for the respective divisions, the works have not been allotted to them, instead the work are allotted to the Retired Public Health Works and Badli Workers Welfare Society, Ongole-2nd respondent whose tender is higher than the petitioners.

5. Heard learned counsel for the petitioners, learned Standing Counsel appearing for the respondent No.1 and learned counsel appearing for Respondent No.2

6. Learned counsel appearing for the petitioners contends that the petitioners are entitled to preferential allotment as provided in G.O.Ms.No. 581 M.A. Municipal Administration and Urban Development (G2) Department, dated 6th November, 1996 (herein after referred to as 'G.O.' for brevity) and thus, the tenders furnished by them are also required to be considered along with the tenders submitted by the eligible persons. Sri M.V.Suresh Kumar, learned counsel appearing for the petitioner in W.P.No.11168 of 2005 laid much emphasis on para 2(2) of above said G.O. He further submits that when a similar question came up for consideration in W.P.No.18888 of 2003 dated 18.09.2003 **(Ushodaya Municipal Public Health Ex-Employees Families Welfare Association and another V Municipal Commissioner, Ongole and another)** and W.P.No.5239 of 2004 dated 21.04.2005 **(Ushodaya Municipal Public Health Ex.Employees Family Welfare Association and others V The Commissioner, Municipal Corporation of Vijayawada)** wherein this Court held that the society comprising Schedule Caste members is also

entitled to have preferential allotment as provided in the above referred G.O. with regard to carrying out sanitation works in the Municipality.

7. Learned Standing Counsel appearing for the 1st respondent submits that the object of issuance of the said G.O. is to give benefit to Badli workers and therefore, the petitioners' societies which do not comprise Badli workers are not entitled for any preferential allotment of works under the G.O. referred above.

8. Learned counsel appearing for the 2nd respondent in both the writ petitions submits that the main object of the G.O. is to give benefit to Badli workers with regard to entrustments of sanitation works and thus the benefit cannot be extended to any other society/persons.

9. Learned Government Pleader for the Municipal Administration appearing for the third respondent submits that the G.O. is applicable to the societies comprise schedule caste and schedule tribes as members having experience of sanitation work, such as Badli workers. For better understanding of rival contentions of the parties, I deem it appropriate to refer para 2 of the above referred G.O. and it is thus:

> "*The Government after careful consideration of the demand have decided that it is not possible to appoint the Badili Workers in the above vacancies because of the general policy of Government. But, keeping in view the need for improvement of efficiency in sanitation, decided to entrust the sanitation work where there is a need in Municipalities/Municipal Corporations to the societies formed with the retired public Health Workers or their dependents and Badli Workers with the following modalities:*
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> 1. *The Societies should be registered under societies Registration Act.*
> 2. *The Members should belong to retired Public Health Workers their children/and other Scheduled Caste/Scheduled Tribe Community people having experience of Sanitation work such as Badili Workers".*

10. To put it optly three categories of the persons are entitled for preferential allotment of works under the G.O. Firstly, retired Public Health Workers and their children, secondly, SC,ST community people having experience of sanitation work and thirdly, badli workers. The contention of the respondents that the members

belonging to SC,ST Community having experience of sanitation works are not entitled to the preferential allotment cannot be accepted.

11. Having regard to facts and circumstances of the case, I deem it appropriate to direct the 1st respondent-Municipality to consider the tenders submitted by the writ petitioners subject to writ petitioners possessing experience in sanitation works, such as badli workers. If the petitioners do not possess the experience of sanitation works, the 1st respondent has to communicate the same to the petitioners' society as ground for rejection of their tenders.

12. With the above observation, both the writ petitions are disposed of. No order as to costs.

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Justice B.Seshasayana Reddy

6th December, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No.11168 OF 2005

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